

July 13, 2010

Mary V. Anderson
Western Region Gen. Counsel
Aetna Health of California, Inc.
2625 Shadelands Drive
Walnut Creek, CA 94598

RE: ENFORCEMENT MATTER NUMBER 09-186

LETTER OF AGREEMENT

Dear Ms. Anderson:

The Office of Enforcement of the Department of Managed Health Care (the Department) has concluded its investigation of Aetna Health of California, Inc. (Aetna or the Plan) regarding compliance with Health and Safety Code, sections 1367(d), 1367(e)(1), 1367(i), 1368(a)(1) and California Code of Regulations, title 28, section 1300.68(a)(1). The Department has concluded that there is sufficient evidence to proceed with an Accusation asserting that violations of the Knox-Keene Health Care Service Plan Act of 1975, as amended, (the Knox-Keene Act) have occurred and that an administrative penalty of \$70,000 is warranted. However, the Department and Aetna have agreed to settle this matter by Letter of Agreement.

FACTUAL BACKGROUND

The Enrollee exhausted her Cal-COBRA benefits on February 28, 2006. Pursuant to California Health and Safety Code, section 1373.6, she converted her group membership to an Aetna Individual Conversion Plan. She completed all required steps and her conversion coverage should have been effective on March 1, 2006. Although Aetna approved her application for conversion coverage and cashed premium checks tendered by the Enrollee, she was unable to obtain basic health care services or referrals to specialists because she was listed as ineligible for coverage in Aetna's system. It was not until April 12, 2007 – 13 months after her enrollment in Aetna's conversion plan – that the eligibility error was corrected.

The information submitted with the Enrollee's Help Center grievance indicates that she contacted Aetna on 14 occasions between December 2006 and April 2007, in an attempt to correct the error regarding eligibility. Aetna admits that it did not initiate a grievance for the Enrollee until March 7, 2007, when she was instructed to file a formal grievance with the Plan. Before that time, Aetna's Customer Service Representatives unsuccessfully attempted to resolve her eligibility by contacting her contracted IPA and Aetna's corporate headquarters in Connecticut.

The Enrollee filed a written grievance with the Plan on March 8, 2007. She requested reimbursement of her premiums and out-of-pocket expenses she incurred due to the Plan's error. In its response, Aetna stated that "due to an electronic tape submission error, your eligibility was terminated March 1, 2006 in error." Therefore, it is undisputed that an error in Aetna's computer processing logic caused the eligibility problem.

Ultimately, the computer logic error affected 66 of Aetna's Conversion Plan enrollees in California who were dropped from the eligibility list at some point from January 1, 2005 to September 4, 2009. However, the Plan has voluntarily implemented corrective action to prevent this from happening in the future. It also reimbursed all of the Enrollee's premiums and her out-of-pocket expenses.

VIOLATIONS

Violation No. 1: Section 1367(i): Requires a plan to provide all basic health care services.

The Plan denied all services to the Enrollee from March 1, 2006 through April 12, 2007. During that period, the Plan's inability to correct the computer logic error resulted in the Plan failing to provide the Enrollee with the basic health care services required under the Act and her EOC for 13 months. Additionally, as a result of Aetna's inability to resolve the eligibility error, she was billed directly for services that should have been paid by Aetna or her IPA in violation of section 1367(i) and 1345(b)(3).

Violation No. 2: Sections 1367(d) and 1367(e)(1): Section 1367(d) requires the plan to provide continuity of care and appropriate referral of patients to other providers. Section 1367(e)(1) requires that the plan ensure that all services shall be readily available at reasonable times to each enrollee consistent with good professional practice."

Because Aetna's failure to correct the eligibility error resulted in the inability of the Enrollee's IPA to confirm that medically necessary services would be covered, the Enrollee was unable to obtain necessary health care services and ready referrals to specialists for potentially serious health conditions, in violation of section 1367(d) and (e)(1).

Violation No. 4: Section 1368(a)(1) and California Code of Regulations, title 28, section 1300.68(a)(1): Requiring every plan to establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan.

The Enrollee made 14 telephone inquiries to the Plan between December, 2006 and April, 2007, and both she and her IPA expressed dissatisfaction because she was being denied benefits due to the Plan's failure to correct the eligibility error which prevented her from accessing medically necessary health care services. However, there is no documentation from the Plan that it took any steps to initiate a grievance in violation of section 1368(a)(1) and California Code of Regulations, title 28, section 1300.68(a)(1)

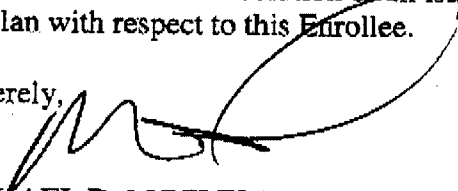
AETNA'S IMPLEMENTATION OF CORRECTIVE ACTION AND MITIGATION OF THE ADMINISTRATIVE PENALTY

Once Aetna determined that a computer logic error caused current conversion members to drop off the eligibility list, it submitted a service request to modify the existing eligibility program to Aetna's corporate headquarters. That funding request was not approved because Aetna anticipated that the problem would be corrected following implementation of a new membership and eligibility system which was expected to be operational in January of 2007. Although the Plan has made a significant investment in the project, it is not expected to be fully operational until 2011. In the interim, Aetna has voluntarily implemented corrective action and provides all of its contracted providers and medical groups with the following methods for verifying an enrollee's eligibility:

- A. A dedicated telephone line and direct e-mail access to two employees who have real time access to eligibility for all Aetna enrollees in California;
- B. Effective March 31, 2010 an additional eligibility file containing current eligibility information for the California Conversion Members group that was affected by the computer logic error has been provided to each IPA to confirm eligibility for members in this Group. Aetna will continue to provide this information on a monthly basis until the new eligibility system is fully operational.

Based on the facts set forth above, the Department finds that Aetna violated Health and Safety Code, sections 1367(d), 1367(e)(1), 1367(i), 1368(a)(1) and California Code of Regulations, title 28, section 1300.68(a)(1). The Department has determined that an administrative penalty of \$70,000 is warranted in this matter and the Plan has agreed to pay the penalty. Aetna and the Department agree that execution of this Letter of Agreement and payment of the penalty is intended to be a final resolution of all issues, accusations and claims the Department has against the Plan with respect to this Enrollee.


Sincerely,


MICHAEL D. MCCLELLAND
Assistant Deputy Director
Office of Enforcement

LC:slb

Accepted by AETNA HEALTH OF CALIFORNIA, INC.

Dated: 7-26-10


MARY V. ANDERSON
Western Region Gen. Counsel
Aetna Health of California, Inc.